



January, 7, 2019

Sent Via Electronic Mail and U. S. Mail

Puglia Engineering, Inc.
201 Harris Avenue
Bellingham, WA 98225
Attention: Neil Turney

Re: Engagement Letter Agreement

Dear Neil,

This letter agreement (the "**Agreement**") is entered into on January 7,, 2019, by and between Commenda Asset Resolution Partners, LLC ("**Commenda**") and Puglia Engineering, Inc. ("**Puglia**" or "**Client**"). This letter sets forth the consulting services to be rendered by Commenda to Client in regards to Client's contemplated asset sale pursuant to 11 U.S.C. § 363 in the Client's pending chapter 11 bankruptcy in the United States Bankruptcy Court for the Western District of Washington (the "**Bankruptcy Court**") (Case No. 18-41324) (the "**Engagement**"). This Agreement is made on the following terms and conditions for valuable consideration, the receipt and adequacy of which is hereby acknowledged, and is expressly subject to the approval of the Bankruptcy Court.

1. ENGAGEMENT

Commenda's duties shall include the following:

Consulting Services:

Commenda will provide selected services to Client, including:

- Assist in the formulation, planning and execution of the sale of all or a portion of Client's assets pursuant to 11 U.S.C. § 363, or of the equity interests in Puglia;
- Assist in the development of a notice of sale, bid procedures and related materials in conjunction with Client for approval by the Bankruptcy Court and circulation to interested parties;
- Forward notice of sale to various entities, including debtholders and/or other creditors, in discussions with and as deemed appropriate by Client;
- Create a data room to be populated with relevant company information (as approved by Client);
- Prepare a list of Client's assets available for sale (substantially including intangibles/intellectual property);
- Oversee the asset sale process and due diligence inquiries of interested parties. Track communications. Coordinate the dissemination of additional information and or materials to interested parties;
- Review offers from interested parties and assist in documentation of sale, as appropriate, and assist the Client in connection with diligence as to the financial capabilities of the interested buyer to consummate its proposed transaction (whether it is an asset or equity sale), and with obtaining appropriate consents and ensuring that the purported sale is in conformance with 11 U.S.C. § 363(f) to the extent it is an asset sale, and otherwise assisting with the process of obtaining approval of the Bankruptcy Court for the proposed transaction.

Commenda will perform the Consulting Services in good faith, in a diligent, trustworthy, businesslike and efficient manner, with reasonable care.

2. NO RESULT GUARANTEED

While the goal of the Engagement is to provide useful advice that may facilitate the sale of Client's assets, there can be no assurance of success. Accordingly, Commenda does not guarantee any particular result from its services. Specifically, there is no assurance that any creditor will be satisfied or will provide Client with any relief or will refrain from enforcing any rights or remedies. Client acknowledges and agrees that Commenda is not directly or indirectly responsible or liable for or on account of any decision, act or omission of any creditor, including any creditor who may support or encourage the Engagement.

3. OTHER SERVICES

Unless otherwise hereafter agreed in writing by Commenda, no other services or advice is required.

4. LIMITATIONS

Nothing herein requires or contemplates Commenda providing any legal advice (since it does not practice law), any accounting or auditing services, any real estate brokerage services, or any other services requiring a license. Commenda's obligation is to perform services solely as an independent contractor only (and not as a fiduciary, partner, agent, or other relationship, each of which is disclaimed and excluded from this Agreement) using commercially reasonable efforts of diligence and care under the circumstances by reference to the practical capabilities of Commenda as they exist, without requiring additional staff or other changes in Commenda or its business practices or capabilities. To the extent that Commenda provides any advice or opinions, Commenda does so based upon the understanding that Client will consider the same as general business suggestions that are subject to Client checking with Client's counsel for any legal problems or concerns, with Client's accountant or audit or as to such accounting or audit concerns, and with other experts as appropriate. Notwithstanding any other provision of this Agreement to the contrary, Client, on behalf of itself and its affiliates, represents, warrants and agrees that, if Client or any of its affiliates advises Commenda of any fact or situation, whether directly or through any of its employees, officers, directors, members, partners, managers, attorneys, accountants or other agents, Commenda may conclusively rely on such communication, as well as the Client's documents, books and records unless the Client specifically warns Commenda that particular documents or information is inaccurate, incomplete or unreliable in some specified respect. While Commenda might be able in time to discover errors on its own, Client directs Commenda not to be so distracted but to prioritize its Engagement services. In addition, Client further represents, warrants and agrees that Commenda need not concern itself with Client's affiliates, except when and to the extent Client and Commenda include that in the Engagement, since Client separately from Commenda shall make such adjustments and supplements to its dealings with its affiliates.

5. TERM

Commenda's retention by Client is effective upon entry of an order of the Bankruptcy Court approving this Agreement, and shall continue until the Engagement is concluded or terminated in accordance with provisions outlined below.

6. FEES

As consideration for the services to be provided by Commenda, a monthly non-refundable fee of Twenty Thousand Dollars (\$20,000) will be paid with the expectation the engagement will last three months. The first payment will be due and payable with the bankruptcy court's approval of the engagement. In addition:

Client shall pay Commenda a success fee of four percent (4%) of the aggregate gross value of total consideration paid by buyer(s). However, Puglia is currently in discussion

with two potential buyers, and if a sale occurs with either of the current interested parties, Commenda shall receive a flat success fee of one hundred thousand dollars (\$100,000). Total consideration paid by buyers includes the total amounts received or to be received directly or indirectly by the Client, its shareholders and its holders of equity-linked securities, including cash, loans, property and securities, any current assets retained by the Client, payments for non-compete covenants, consulting, royalty and licensing agreements, and the total amount of liabilities of the Client for borrowed money directly or indirectly assumed, forgiven, repaid, refinanced, restructured, retired, extinguished or acquired as a result of any transaction. The Success Fee shall be paid directly to Commenda from the sale proceeds upon the closing of a transaction. If the winning bid includes an earn-out provision, Commenda would receive its success fee relating to the earn-out portion at the same time as liquidity is received by the Client. No success fee will be paid on any escrow or contingent payments to be made including any earn-out until such payments are received by the Client. Commenda's success fee would apply to any interested party contacted as part of Commenda's efforts regardless of whether or not Commenda is retained for additional services (for a period of 6 months after termination of the Engagement).

For the avoidance of doubt, the success fee described herein will be approved by the Bankruptcy Court in connection with a sale hearing to approve the sale of assets to the successful bidder for the assets.

7. NON-SOLICITATION

Commenda incurs considerable effort and expense in recruiting and training its professional staff working on the Engagement (the "**Commenda Staff**"). Therefore, Client agrees that neither it, nor any of its respective officers, directors or employees shall, directly or indirectly solicit any of the Commenda Staff during the Term and for a 24-month period after the Term; provided that the foregoing restrictions shall not prevent Client from (i) publishing or posting general employee solicitations in newspapers or Internet "help wanted" or other similar job postings or listings (provided that such general employee solicitations are not directed to or focused on persons employed/contracted by Commenda), (ii) hiring any person who responds to a general employee solicitation of a nature described in the preceding clause (i), or (iii) hiring any person who approached Client on his or her own initiative without any solicitation from such party.

8. EXPENSES

Commenda shall also be reimbursed on demand for all reasonable and documented out-of-pocket expenses, including but not limited to, travel (including airfare, lodging, rental cars, mileage, etc.), printing/copying/postage costs, and any other reasonable and documented costs incurred by Commenda in the course of activities or actions required or permitted by this Agreement; provided that reimbursement of expenses in excess of \$1,000 (for any given expense) will require prior approval thereof by the Client together with submittal of substantiating documentation for each such expense acceptable to the Client, acting reasonably. The intent of the Agreement is that the compensation payable to Commenda under Section 6 is in addition to Client paying Commenda to acquire whatever Commenda reasonably requires to perform the Engagement that is not provided timely by the Client. Client acknowledges that Commenda will need to arrange at Client's expense to cover all travel, meals and lodging for the Commenda team required to perform the contemplated services. Commenda shall be reimbursed by Client within five (5) days of receipt of Commenda's statement or, if requested by Commenda, will pay expenses directly.

9. INFORMATION

Client agrees to supply, in a timely manner, Commenda with such information, including documents, books and records in written and/or electronic format, as Commenda reasonably requests in order for Commenda to perform its responsibilities with respect to this Agreement (the "Materials"), as well as

access to knowledgeable officers, employees and agents, and other relevant parties in interest and professionals as Commenda may find useful, acting reasonably, to understand or evaluate the Materials and otherwise perform the contemplated or permitted activities or services in the Engagement. Client grants Commenda discretionary authority to disclose such information about Client or Materials as Commenda deems appropriate in order to perform its duties and responsibilities or to exercise its rights; provided that Commenda may not disclose information which Client indicates is confidential or whose disclosure is otherwise restricted by the documents governing the Client's loan transactions with Debtors. Confidentiality agreements may be required by Commenda to be executed, where appropriate by such third parties with respect to such disclosures. Because Client contemplates that Commenda may be asked to comment on its opinions to Client lenders or other creditors or third parties, Client agrees that Commenda shall at all times be authorized to express its full opinions and the reasons and supporting information therefor subject to any restrictions in this Paragraph 9, as well as to correct or supplement prior opinions or communications or perceptions when additional information makes that appropriate. Client agrees that it shall at all times provide Commenda, and any third party to whom Client has asked Commenda to provide comments, with all material information required for the Client's position to be true, complete, not misleading and fairly presented. Client agrees that, if it makes a communication to a third party in Commenda's presence (or in a communication on which Commenda is copied) which is incorrect, incomplete or misleading, Commenda may disclaim any implied agreement by Commenda with such communication. At the same time, Client acknowledges that Commenda is not engaged (i) to perform any audits of Client or (ii) to develop opinions at a level which would enable Commenda to make any representations or warranties about Client to any third party, or (iii) otherwise to incur any risk of liability to any third party in the performance of Commenda's Engagement.

10. INDEMNIFICATION

In consideration for Commenda's acceptance of the Engagement, Client agrees to the defense, indemnification and other obligations set forth on Schedule I attached hereto, which schedule is an integral part hereof and incorporated herein. No amount required to be paid by any provision of this Agreement shall be excused or reduced by or on account of any alleged right of offset or recoupment by Client or based upon any other claims asserted by the payor party obligated to make such payment, and the parties waive any such right of setoff or recoupment, so that the parties shall be paid in accordance with this Agreement without delay for resolution of disputed claims providing an alleged basis for such right of setoff or recoupment. Notwithstanding anything in this Agreement or the schedules hereto to the contrary, no party to this Agreement (nor such party's affiliates nor any of their respective employees, vendors, officers, directors, shareholders, members, partners, managers, attorneys, accountants or other agents), will be liable for any consequential, indirect, exemplary or punitive damages (including lost profits) arising in connection with this Agreement or the performance, omission of performance, or termination hereof without regard to the nature of the claim (e.g., breach of contract, negligence or otherwise), even if a party has been advised of the possibility of such damages. Furthermore, Client shall not be liable for any damages arising in connection with this Agreement or the performance, omission of the performance, or termination hereof without regard to the nature of the claim (e.g., breach of contract, negligence or otherwise) in excess of the amount of fees previously received by Commenda for its services to Client.

11. GOVERNING LAW; FORUM; ARBITRATION; JURY TRIAL WAIVER.

This Agreement and all matters hereto shall be interpreted, governed by, and construed in accordance with, the laws of the State of Washington applicable to agreements made and to be performed entirely in such state without reference to conflicts of law, principles or principles of comity. With respect to any controversies, claims or disputes relating to this Agreement or arising in connection with or under this Agreement or any acts, omissions or relationships contemplated or taken, occurring, or arising pursuant to or as provided in this Agreement or otherwise from or in connection with the Engagement or any acts or omissions if any party or person in the cause thereof, whether relating to or arising in breach of contract, tort, equity or other claim or dispute of any kind under any theory, (a) each of the parties

irrevocably and unconditionally consents and submits to the exclusive jurisdiction of the United States Bankruptcy Court for the Western District of Washington, or if the Bankruptcy Court declines to accept jurisdiction, any federal or state court within the State of Washington, and, in each case, any appellate court thereof; (b) each of the parties irrevocably waives the right to trial by jury; and (c) each of the parties irrevocably consents to service of process by first class certified mail, return receipt requested, postage prepared, to the address at which such party is to receive notice in accordance with this Agreement.

12. TERMINATION

Upon five (5) days written notice any party may terminate this Agreement, except as to provisions expressly stated herein to survive termination and without prejudice to rights that have accrued as of such termination, including any rights to payment that have accrued at that time, whether absolute, contingent or inchoate, liquidated or unliquidated and however and whenever arising or asserted. Upon any termination or expiration of this Agreement, Commenda shall be entitled to prompt payment of all fees and other amounts accrued as a result of this Engagement, including those asserted after termination on account of events or matters occurring before termination, and all out-of-pocket expenses described in Paragraph 8. Paragraphs 4, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of this Agreement and the indemnity and other provisions contained in Schedule I and the obligation to pay any fees and other amounts earned but unpaid described in Paragraph 6 or other provisions of this Agreement shall remain operative and in full force and effect regardless of any termination or expiration of this Agreement.

13. CONFLICTS; NO REFERRAL EXPOSURE

Client acknowledges that Commenda and its affiliates may have and may continue to have consulting and/or other relationships with parties other than Client, including affiliates, creditors or equity holders of Client, pursuant to which Commenda may have or acquire information of interest to Client. Commenda shall have no obligation to disclose such information to Client or to use such information in connection with this Engagement, and Client hereby waives any alleged conflict of interest relating to any of the other dealings or relationships between (i) Commenda or any of its affiliates or any of their respective shareholders, members, partners, employees, officers, directors or agents, and (ii) any creditor, equity holder of Client or any of its affiliates or other third party. Client acknowledges that part of its reason for selecting Commenda is that existing or future relationships, dealings or experiences with Commenda may enable Client to deal more effectively with such creditors, equity holders or other third parties, although there is no representation, warranty, assurance or guarantee thereof by or for Commenda. Client recognizes that Commenda is being engaged hereunder to provide the services described above only to Client, and Commenda is not directly or indirectly acting as an agent or fiduciary of, and shall have no duties or liability, whether express or implied, to, the current investors or affiliates of Client or any third party in connection with this Engagement hereunder, all of which are hereby expressly waived and disclaimed. No one other than Client is authorized to rely upon the Engagement of Commenda hereunder or any communications, statements, advice, opinions or conduct of Commenda, and Client is not authorized to communicate or represent to any third party any communications, opinions or work product of Commenda without its prior written consent and under circumstances where Commenda incurs no risk of liability to such third party or others on account thereof. If and to the extent that Commenda is referred to Client by any investor, creditor or other third party dealing with Client, including those for which Commenda has provided or may be providing services or otherwise be dealing in unrelated matters, and, in any event, otherwise, Client shall not use such referral or such relationship of Commenda (or any of its affiliates or any of their respective employees, officers, directors, members, partners, managers or agents) as a basis for asserting any liability against Commenda (or any of its affiliates or any of their respective employees, officers, directors, members, partners, managers or agents), whether or not Client has or develops any claims or disputes with such third party, and Client waives any conflict of interest that might otherwise be alleged on the basis of such relationships of Commenda (or any of its affiliates or any of their respective employees, officers, directors, members, partners, managers or agents) in connection with this Engagement with such third party. When a creditor, investor or other third party with a

relationship with Commenda (or any of its affiliates or any of their respective employees, officers, directors, members, partners, managers or agents) recommends the Client's engagement of Commenda, Client acknowledges and agrees that no conflict arises on account thereof, and that Client welcomes such relationships because that benefits Client by association with a known advisor, such as Commenda.

14. MUTUAL REPRESENTATIONS AND WARRANTIES

Client and Commenda represent and warrant for itself that (a) such party to this Agreement has full and unrestricted authority and right to make and perform this Agreement in accordance with its terms; (b) the making or performance of this Agreement by such party shall not violate any rights of, agreements with or obligations to any third parties; (c) this Agreement shall be and is a valid and binding obligation of such party which is legally enforceable in accordance with its express terms; and (d) such party shall not circumvent or otherwise frustrate the expressed intent or expressed provisions of this Agreement. APART FROM THE FOREGOING, COMMENDA MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND COMMENDA DISCLAIMS (AND CLIENT WAIVES) ANY IMPLIED WARRANTIES OF ANY KIND, INCLUDING ANY WARRANTIES OF FITNESS OR MERCHANTABILITY OF ANY SERVICES OR ADVICE. CLIENT IS SOLELY AND EXCLUSIVELY DEALING WITH COMMENDA, AND CLIENT AGREES THAT IT SHALL HAVE NO RIGHTS OR CLAIMS AGAINST ANY AFFILIATES OF COMMENDA OR ANY OFFICER, DIRECTOR, EMPLOYEE, MEMBER, PARTNER, OR AGENT OF COMMENDA OR ANY OF ITS AFFILIATES UNDER THIS AGREEMENT, NONE OF WHOM CLIENT AGREES SHALL HAVE ANY OBLIGATIONS, DUTIES OR LIABILITIES TO CLIENT IN CONNECTION WITH THIS AGREEMENT OR THE ENGAGEMENT.

15. NOTICES

Any notice from one party to the other sent and received within the United States, shall be sent (a) via first class certified mail, return receipt requested or (b) via a nationally recognized overnight courier capable of verifying delivery, marked for next business day delivery and shall be deemed received upon the earlier of (i) the date of actual receipt, (ii) the date such mail is refused, (iii) the date such mail is returned, or (iv) three (3) days following deposit with the U.S. Postal Service. Notices sent or received outside the United States shall be sent via an internationally recognized overnight courier capable of verifying delivery, marked for second business day delivery and shall be deemed received upon the earlier of (i) the date of actual receipt or (ii) two (2) business days following deposit with such courier. Herein, "business day" means a day on which such courier is open for business within the jurisdiction to which notice is delivered. Notices shall be in writing, addressed to the person to be noticed at the address below or to such other person and/or address as may be designated from time to time in writing by such party to be noticed, and all applicable courier or postage fees shall be prepaid by the noticing party.

If to Commenda:

Mr. Thomas L. Minick, Manager
Commenda Asset Resolution Partners, LLC
6300 Powers Ferry Road, Suite No. 600-231
Atlanta, GA 30339
Phone: (678) 596-6014

If to Client:

Puglia Engineering, Inc.
201 Harris Avenue
Bellingham, WA 98225
Attention: *Neil Turney*

And to:

James L. Day
Bush Kornfeld LLP
601 Union Street, Suite 5000
Seattle, WA 98101
Phone: 206-292-2110
Email: jday@bskd.com

16. COMPLETE AGREEMENT; SEVERABILITY; AMENDMENTS; ASSIGNMENT; CONSTRUCTION.

This Agreement embodies the entire agreement and understanding between the parties hereto and contains all of the terms agreed upon by the parties with respect to the subject matter hereof, and there are no representations, agreements or understandings between the parties except as provided herein, whether expressed or implied, direct or indirect. This Agreement supersedes any prior communications, agreements or understandings relating to the subject matter hereof, and this Agreement may not be amended or otherwise modified or waived in any way except by a writing duly executed by all parties. No oral or implied agreements, waivers, or obligations shall be allowed to alter or affect such written provisions of this Agreement. This Agreement may not be assigned by any party without the prior written consent of the other parties. There shall be no third party or other beneficiaries to this Agreement except as to the signing parties and, as to the indemnities herein, the indemnitees. Furthermore, all parties have negotiated the terms of this Agreement and have had the opportunity to engage counsel to review the same. Accordingly, this Agreement shall not be construed more strongly in favor or against any party hereto and shall be binding and inure to the benefit of Client, Commenda, each Indemnified Person (as defined in Schedule I hereto) and their respective permitted successors and assigns. The invalidity or illegality of any provision or term contained in or made a part of this Agreement shall not affect the validity of the remainder of this Agreement and, where unenforceable or invalid provision would be enforceable or valid if requiring a lesser magnitude or degree of obligation or right, such provision shall be reduced to such extent needed to make such provision enforceable and valid. The headings in this Agreement are inserted for convenience only and shall not affect the construction hereof.

17. ELECTRONIC MAIL COUNTERPARTS

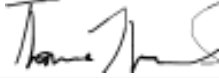
This Agreement may be entered into by the parties by signing any one or more counterparts, all of which shall constitute one and the same instrument. This Agreement shall become effective when one or more counterparts shall have been executed by each party and delivered to each other party. This Agreement may be delivered to such other parties via electronic mail (PDF). Any party's PDF signature shall be deemed an original and binding signature as of the date set forth above. Please indicate your acceptance of the terms of this Agreement by signing below and returning same.

[Remainder of Page Intentionally Left Blank]

18. ENFORCEMENT

The prevailing party in any dispute in connection with this Agreement or the Engagement shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party.

Very truly yours,



Thomas L. Minick
for Commenda Asset Resolution Partners, LLC

APPROVED AND ACCEPTED:

Puglia Engineering, Inc.

By: Neil Turney
Its: President

Date: _____

18. ENFORCEMENT

The prevailing party in any dispute in connection with this Agreement or the Engagement shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party.

Very truly yours,



Thomas L. Minick
for Commenda Asset Resolution Partners, LLC

APPROVED AND ACCEPTED:

Puglia Engineering, Inc.



By: Neil Turney
Its: President

Date: _____

12/28/18



SCHEDULE I

This Schedule I is a part of and is incorporated into that certain letter agreement (together, the "Agreement") dated December 24, 2018 by and between Puglia Engineering, Inc. ("**Puglia**" or "**Client**") and Commenda Asset Resolution Partners, LLC ("**Commenda**").

This Schedule shall confirm that Client agrees to indemnify and hold harmless Commenda and its affiliates, the respective directors, officers, and employees of Commenda and its affiliates and each other person, if any, controlling Commenda or any of its affiliates (Commenda and each such person and entity being referred to as an "Indemnified Person"), to the full extent lawful, from and against any losses, claims, damages, liabilities or actions (including without limitation shareholder actions and actions arising from the use of information contained in the Materials or omissions from such Materials) related to or arising out of this Engagement or Commenda's role in connection herewith, and shall pay (or, if paid by an Indemnified Person, reimburse such Indemnified Person) for all reasonable and documented fees and expenses (including without limitation counsel fees) incurred by such Indemnified Person in connection with investigating, preparing or defending any such action or claim, whether or not in connection with pending or threatened litigation in which any Indemnified Person is a party. Client shall not, however, be responsible for any claims, liabilities, losses, damages or expenses which result from any compromise or settlement not approved by Client or which result primarily from the fraud, willful misconduct or negligence of any Indemnified Person. The foregoing agreement shall be in addition to any rights that any Indemnified Person may have at common law or otherwise, including, without limitation, any right to contribution.

If any action or proceeding is brought against any Indemnified Person in respect of which indemnity may be sought against Client pursuant hereto, or if any Indemnified Person receives notice from any potential litigant or a claim which such person reasonably believes shall result in the commencement of any such action or proceeding, such Indemnified Person shall promptly notify Client in writing of the commencement of such action or proceeding, or of the existence of any such claim, but the failure so to notify Client of any such action or proceeding shall only relieve Client to the extent of the prejudice suffered from failure to deliver notice and shall not relieve Client from any other obligation or liability which it may have to any Indemnified Person otherwise than under this Agreement or with respect to any other action or proceeding. In case any such action or proceeding shall be brought against any Indemnified Person, Client shall be entitled to participate in such action or proceeding with counsel of Client's choice, or compromise or settle such action or proceeding at its expense (in which case Client shall not thereafter be responsible for the fees and expenses of any separate counsel retained by such Indemnified Person); provided, however, that such counsel shall be satisfactory to the Indemnified Person in the exercise of its reasonable judgment. Notwithstanding Client's election to assume the defense of such action or proceeding, such Indemnified Person shall have the right to employ separate counsel and to participate in the defense of such action or proceeding, and Client shall bear the reasonable fees, costs and expenses of such separate counsel (and shall pay such fees, costs and expenses at least quarterly), if (i) the use of counsel chosen by Client to represent such Indemnified Person would, in the reasonable judgment of the Indemnified Person, present such counsel with a conflict of interest; (ii) the defendants in, or targets of, any such action or proceeding include both an Indemnified Person and Client, and such Indemnified Person shall have reasonably concluded that there may be legal defenses available to it or to other Indemnified Persons which are different from or additional to those available to Client (in which case Client shall not have the right to direct the defense of such action or proceeding on behalf of the Indemnified Person); (iii) Client shall not have employed counsel satisfactory to such Indemnified Person in the exercise of the Indemnified Person's reasonable judgment to represent such Indemnified Person within a reasonable time after notice of the institution of such action or proceeding; or (iv) Client shall authorize such Indemnified Person to employ separate counsel at Client's expense.

In order to provide for the just and equitable contribution, if a claim for indemnification hereunder is found unenforceable in a final judgment by a court of competent jurisdiction (not subject to further appeal), even though the express provisions hereof provide for indemnification in such case, then each of Client and Commenda shall contribute to the losses, claims, damages, judgments, liability or costs to which the Indemnified Person may be subject in accordance with the relative benefits received by, and the relative fault of, each in connection with the statements, acts or omissions which resulted in such losses, claims, damages, judgments, liabilities, or costs. Client agrees that a pro rata allocation would be unfair. No person found liable for a fraudulent misrepresentation or omission shall be entitled to contribution from any person who is not also found liable for such fraudulent misrepresentation or omission. Notwithstanding the foregoing, Commenda shall not be obligated to contribute to any amount hereunder that exceeds the amount of fees previously received by Commenda for its services to Client.

These indemnification provisions shall (i) remain operative and in full force and effect regardless of any termination, expiration or completion of the Engagement of Commenda; (ii) inure to the benefit of any successors, assigns, heirs or personal representative of any Indemnified Person; and (iii) be in addition to any other rights that any Indemnified Person may have.